

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CHRISTOPHER H. WEST

Plaintiff

vs.

MARK EMIG and JEFFREY CARROTHERS:

Defendants

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C.A. 13-2103-GMS

**DEFENDANTS' THIRD UNOPPOSED MOTION FOR ENLARGEMENT  
OF TIME IN WHICH TO FILE CASE DISPOSITIVE MOTION**

COME NOW, Defendants Mark Emig and Jeffrey Carrothers ("Defendants"), by and through their undersigned counsel and respectfully move this Honorable Court to enter an Order granting an additional enlargement of time pursuant to Fed. R. Civ. P. 6(b), within which to prepare and file a case dispositive motion in the above-captioned matter. In support of this Motion, Defendants state as follows:

1. On or about December 30, 2013, Plaintiff Christopher West ("Plaintiff") filed a Complaint under 42 U.S.C. §1983 and subsequently filed a Motion to proceed *in forma pauperis*. On January 16, 2014, this Honorable Court granted Plaintiff's Motion.

2. On or about November 25, 2014, the undersigned counsel entered his appearance on behalf of Defendants Emig and Carrothers.

3. On or about December 16, 2014, Defendants filed a Motion for Extension of Time to File a Response to Plaintiff's Complaint.

4. On or about December 17, 2014, this Honorable Court granted Defendants' Motion to File a Response to Complaint, said answer to be filed on or before January 5, 2015.

5. On or about January 5, 2015, Defendants filed a Motion for Summary Judgment and Memorandum of Law in Support thereof.

6. On or about January 14, 2015, Plaintiff filed a Memorandum in Opposition to Defendants' Motion for Summary Judgment, a Motion for Preservation of Evidence and a Motion for Extension of Time to acquire legal counsel.

7. On or about January 14, 2015, Plaintiff sent a letter to Judge Sleet regarding Dr. Timmey's report.

8. On or about January 26, 2015, Defendants filed a Reply to Plaintiff's Response to Defendants' Motion for Summary Judgment and Memorandum of Points and Authorities.

9. On or about February 4, 2015, Plaintiff filed a Supplemental Memorandum in Opposition to Defendants' Motion for Summary Judgment.

10. On or about March 9, 2015, Plaintiff filed a Second Supplemental Memorandum in Opposition to Defendants' Motion for Summary Judgment.

11. On or about July 24, 2015, this Honorable Court issued an Order granting in part and denying in part Defendants' Motion for Summary Judgment, denying as moot Plaintiff's Motion for Extension of Time to acquire legal counsel, and denied without prejudice Plaintiff's Motion for Preservation of Evidence for leave to file at the appropriate stage of the proceedings.

12. On or about August 10, 2015, Plaintiff filed a Response to the aforementioned Order.

13. On or about March 3, 2016, Plaintiff filed a Motion to Compel for Production of Documents.

14. On or about November 3, 2016, Plaintiff filed a letter with the Clerk requesting status of the within matter.

15. On or about November 3, 2016, the Clerk of Court sent a letter to Plaintiff responding to the aforementioned letter.

16. On or about January 23, 2017, this Honorable Court issued an Order denying Plaintiff's Motion to Compel and issued a Scheduling Order setting deadlines, i.e., discovery due by July 10, 2017, Dispositive Motions due by August 11, 2017, Answering Brief due by September 11, 2017, and Reply Brief, if any, due by September 25, 2017.

17. On or about February 10, 2017, Plaintiff propounded Interrogatories and Request for Production of Documents on Defendants.

18. On or about February 23, 2017, Plaintiff filed a Memorandum of Points.

19. On or about March 9, 2017, Defendants filed a Memorandum in Opposition.

20. On or about March 13, 2017, Plaintiff filed his Exhibit (Affidavit) to Memorandum of Points.

21. On or about March 13, 2017, Defendants filed their Response to Plaintiff's Discovery Requests.

22. On or about May 8, 2017, Plaintiff filed his Third Motion to Compel Production of Documents.

23. On or about July 28, 2017, Plaintiff filed a Motion to Amend his Memorandum of Points.

24. On or about August 11, 2017, Defendants filed a renewed Motion for Summary Judgment.

25. On or about August 11, 2017, Stephen A. Hampton, Esquire entered his appearance on behalf of Plaintiff.

26. On or about August 11, 2017, Defendants filed their Memorandum and accompanying documents in Support of Motion for Summary Judgment.

27. On or about August 15, 2017, Motions for *Pro Hac Vice* of Joseph A. Ratasiewicz, Esquire and Nicholas Casamento, Esquire were filed on behalf of Plaintiff.

28. On or about August 16, 2017, this Honorable Court issued an Order admitting Joseph A. Ratasiewicz, Esquire and Nicholas Casamento, Esquire *Pro Hac Vice* on cases 1:16-cv-941, 1:14-cv-1486, 1:13-cv-2103, and 1:14-cv-1513.

29. On or about August 18, 2017, Plaintiff filed his Reply Brief to Defendants' Motion for Summary Judgment.

30. On or about September 11, 2017, Plaintiff filed an Amended Reply Brief to Defendants' Motion for Summary Judgment.

31. On or about September 11, 2017, Plaintiff filed a Motion to Reopen Discovery and Enlargement of Time to Conduct and Complete Discovery.

32. On or about September 26, 2017, Defendants filed a letter response to Plaintiff's Motion to Re-Open Discovery.

33. On or about September 27, 2017, this Honorable Court issued an Order granting Plaintiff's Motion to Re-Open Discovery.

34. On August 1, 2017, the undersigned counsel was advised that Plaintiff had purportedly developed psychological issues requiring his placement once again in Psychiatric Close Observation ("PCO") at JTVCC on or about July 30, 2017. As a result, the scheduled deposition for August 2, 2017 had to be cancelled and apparently postponed until Plaintiff was discharged from PCO status.

35. As a result, Plaintiff's counsel proposed that the parties agree to another extension in which discovery could be completed and the matter proceed accordingly.

36. On September 27, 2017, this Honorable Court entered an Order establishing the following deadlines: Discovery due by November 30, 2017; Dispositive Motions due by December 29, 2017; Answering Brief due by January 29, 2018; and Reply Brief, if any, due February 12, 2018.

37. Counsel for Plaintiff and Defendants have been diligently working towards meeting the discovery deadlines; however, the volume of witnesses for depositions involve approximately ten (10) deponents, several of whom are no longer employed by the Department of Correction. As such, the ability to arrange for their depositions prior to November 30, 2017 created the need for additional time to locate and secure their deposition testimony. Additionally, two (2) of the witnesses are doctors who are employed by an outside agency requiring additional time for the taking of their depositions.

38. It should further be noted that the undersigned counsel was in litigation proceedings all of the week beginning Monday, November 20, 2017 as well as Plaintiff's counsel being unavailable from November 21, 2017 through November 25, 2017.

39. As the parties believed another extension was required in order to move the matter forward in the hope of narrowing the issues for litigation, Plaintiff filed a Motion for another extension in which to complete discovery. (D.I. 61). The Court subsequently granted said Motion and re-set the deadlines as follows: Discovery to be completed by January 15, 2018; Dispositive Motions and accompanying briefs filed by February 16, 2018; Answering Briefs due by March 1, 2018; and Reply Briefs, if any, due by March 15, 2018.

40. Subsequent thereto, the parties were able to conduct some of the desired depositions but ran into difficulties created by the press of other litigation for both parties' counsel, scheduling conflicts, weather issues, and the several holiday interruptions at year's end. In fact, Plaintiff's deposition in both this and a related case was re-noticed for January 4, 2018 but had to be postponed due to weather issues.

41. The Court subsequently granted the undersigned's first Motion for an Enlargement of Time (D.I. 61) and reset the several deadlines which now require further extension. Another extension was later required (D.I. 62) and granted.

42. Subsequent thereto, the parties were able to conduct and complete discovery. Upon doing so, counsel for the parties waited for the transcripts of the several depositions, the last having been conducted on April 3, 2018. Unexpectedly, there was a delay in receipt of the last transcript until late April 2018. During this period, the parties counsel met and conferred as to the probable need for extending the deadline for submission of any possible case dispositive motions with that current deadline being May 11, 2018. In addition to the delayed receipt of the deposition transcripts, both counsel are facing the press of other litigation including, but not limited to, a trial for Plaintiff's counsel at month's end and a mediation conference involving Defendants' counsel at approximately the same time. Finally, both counsel met and conferred as to the possibility of resolving at least one of two cases involving Plaintiff and now pending before this Honorable Court. However, the possibility is contingent upon discussions to be held later this week between Plaintiff and his counsel.

43. As a result of the above, Defendants respectfully request that this Honorable Court grant their unopposed Motion for another enlargement of time within

which they may file a case dispositive motion with an accompanying Brief or Memorandum of Points and Authorities in support thereof.

44. This is Defendants' counsel's third unopposed request/motion for another extension to prepare and file a case dispositive motion with accompanying Brief or Memorandum of Points and Authorities on or before June 19, 2018.

45. There is currently no scheduled trial date in this matter.

**WHEREFORE**, for the reasons set forth above, Defendants respectfully request that this Honorable Court grant their request for an enlargement of time in which to prepare and file a case dispositive motion. Defendants respectfully request an enlargement or extension of time up to and including June 19, 2018 with Answering Brief due by July 3, 2018 and Reply Brief, if any, due by July 17, 2018.

**STATE OF DELAWARE  
DEPARTMENT OF JUSTICE**

/s/ Stuart B. Drowos

Stuart B. Drowos, I.D. #427  
Deputy Attorney General  
Carvel State Office Building  
820 N. French Street, 6<sup>th</sup> Floor  
Wilmington, DE 19801  
(302) 577-8400  
Attorney for Defendants

Dated: May 8, 2018

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CHRISTOPHER H. WEST	:	C.A. 13-2103-GMS
Plaintiff	:	
vs.	:	
	:	
	:	
MARK EMIG and JEFFREY CAROTHERS	:	
Defendants	:	

**ORDER**

This \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**WHEREAS**, Defendants, having requested an enlargement of time in which to complete and file any case dispositive motion with accompanying Brief or Memorandum of Points and Authorities; and

**WHEREAS**, there being good cause shown for granting of such motion:

**IT IS HEREBY ORDERED**, that the Defendants' Motion for Enlargement of Time is GRANTED and said Defendants shall complete and file any case dispositive motions with accompanying Brief or Memorandum of Points and Authorities on or before June 19, 2018.

**IT IS FURTHER ORDERED**, that deadlines are amended as follows:

All summary judgment motions, with accompanying briefs, memoranda of points and authorities and affidavits, if any, will be served and filed on or before June 19, 2018. The answering briefs or memoranda will be filed on or before July 3, 2018, and the reply briefs or memoranda, if any, due on or before July 17, 2018.

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The Honorable Gregory M. Sleet



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CHRISTOPHER H. WEST	:	C.A. 13-2103-GMS
Plaintiff	:	
vs.	:	
	:	
MARK EMIG and JEFFREY CARROTHERS:	:	
Defendants	:	

**7.1.1 CERTIFICATE OF COUNSEL**

Counsel for Defendants Mark Emig and Jeffrey Carrothers, Deputy Attorney General Stuart B. Drowos, files this certification in compliance with Rule 7.1.1 of the Local Rules of Civil Procedure and certifies that said counsel contacted counsel for Plaintiff, Joseph A. Ratasiewicz, Esquire and reached an agreement on the subject of the Motion for Enlargement of Time to complete and file any case dispositive motion.

**STATE OF DELAWARE  
DEPARTMENT OF JUSTICE**

/s/ Stuart B. Drowos  
Stuart B. Drowos, I.D. #427  
Deputy Attorney General  
Carvel State Office Building  
820 N. French Street, 6<sup>th</sup> Floor  
Wilmington, DE 19801  
(302) 577-8400  
Attorney for Defendants

Dated: May 8, 2018

**CERTIFICATE OF SERVICE**

I hereby certify that on May 8, 2018, I electronically filed Defendants' Third Unopposed Motion for Enlargement of Time in which to complete and file a case dispositive motion and accompanying Brief or Memorandum of Points and Authorities with the Clerk of the Court using CM/ECF and thereby providing electronic notice of same to the following participants:

GRADY & HAMPTON, LLC  
Stephen A. Hampton, I.D. #2451  
6 North Bradford Street  
Dover, DE 19904  
Local Counsel for Plaintiff

CASAMENTO & RATASIEWICZ, P.C.  
Joseph Ratasiewicz, Esquire, I.D. #47453  
Nicholas Casamento, Esquire, I.D. #37931  
4 West Front Street  
Media, PA 19063  
Attorneys for Plaintiff

**STATE OF DELAWARE  
DEPARTMENT OF JUSTICE**

/s/ Stuart B. Drowos

Stuart B. Drowos, I.D. #427  
Deputy Attorney General  
Attorney for Defendants